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COMMONWEALTH EDISON COMPANY

CHIEF CLERK'S OFFICE

No. 00-0259

Petition for expedited approval of implementation of a
market-based alternative tariff, to become effective on
or before May 1, 2000, pursuant to Article IX and Sec-
tion 16-112 of the Public Utilities Act.

IIEC COMMENTS ON COMMONWEALTH EDISON COMPANY'S
ALTERNATIVE TO THE NFF

COME NOW Abbott Laboratories, Inc; A. Finkl & Sons; Caterpillar Inc; Daimler Chrysler Corporation; Ford Motor Company, Modern Drop Forge Company; Monsanto Company; Motorola, Inc; Nabisco Brands, Inc; Northwestern Steel & Wire Company; R. R. Donnelley & Sons; Viskase Corporation, and Owens-Illinois, Inc., as the Illinois Industrial Energy Consumers ("IIEC") and in response to the ruling of the Hearing Examiner that they provide comments on the Commonwealth Edison Company ("ComEd") proposed alternative to the NFF state as follows:

1. IIEC requested and continues to request that it be granted the right to conduct complete discovery, present prepared testimony, and respond to testimony presented or offered by others, conduct cross-examination, and prepare and file briefs. IIEC believes this matter is a contested case under Section 10-101 of the Act and, therefore, it should be entitled to present testimony, etc., in this proceeding. The schedule set by the Hearing Examiner in the proceeding is objectionable because it does not provide a reasonable opportunity for any of the things identified above. IIEC has attached responses to the Commission's questions as Exhibit A.

2. IIEC was not able to prepare a complete, comprehensive set of comments in time for the filing date established in this proceeding. IIEC's experts in this proceeding have not been fully available to the attorneys for IIEC because of conflicts in their schedule.

3. IIEC has been unable to receive and provide full and complete responses to discovery requests submitted to it and submitted by it. IIEC did serve ComEd with a discovery request on Friday, April 15th at approximately 12 noon and received a discovery request from ComEd on Friday, April 14th between 4:30 p.m. and 5:00 p.m., in spite of the fact the schedule in this proceeding does not provide for discovery. IIEC has received as of approximately 10:30 a.m., Monday, April 17th partial responses to its discovery requests and provided a partial response to ComEd's discovery request at about 11:00 a.m. on the same date.

4. IIEC requests, pursuant to Section 200.640 of the Commission's procedural rules (83 Ill.Adm.Code 200.640) that the Commission take administrative notice of the record in ComEd Docket 99-0171, relating to ComEd's prior proposal for an alternative to the NFF.

5. In Docket 99-0171, ComEd's last request for approval of an alternative methodology for calculation of market value, the Commission stated in pertinent part:

"The record in this case indicates that there is no perfect way to determine Market Values under Section 16-112. Both the NFF process and the alternative methodology present problems. The key benefit to the alternative proposal is its transparency. The use of publicly available data provides visible and current price signals for all participants, promotes price stability and enables both customers and suppliers to forecast future market values.... . Nonetheless, we conclude that the Cinergy index proposed is flawed and cannot be adopted at this point in time.

We find that based on the record in this proceeding the Commission is not convinced that the proposed Market Value index is a sufficient

substitute for the NFF. The Commission is particularly concerned with the less than robust level of trading on the CINergy market. Such a thinly traded market we believe increases the possibility of market manipulation. Our concerns over the potential of market manipulation are not allayed by the proposed adjustments to ComEd's proposal. Moreover, the Commission is of the opinion such potential for manipulation could have a chilling effect on the development of a competitive electric energy market in Illinois."

Order, Dkt. 99-0171, August 24, 1999, P. 16).

Subsequently for these and other reasons the Commission rejected ComEd's proposed alternative to the NFF in Docket 99-0171. Given an adequate opportunity to conduct discovery and prepare testimony, IIEC would attempt to show that the ComEd index is not transparent, is not based on publicly available data (by ComEd's admission), does not promote price stability and does not enable customers to forecast future market values. Consequently, the values attributed to the previously rejected market index proposal are absent in the current proposal. Similarly, IIEC would attempt to show that the inherent flaws of the prior proposal, e.g., thinness and potential for manipulation are present to an even greater degree in the current proposal.

6. The Commission should keep in mind that under Section 16-112 of the Public Utilities Act (220 ILCS 5/16-112), the ComEd alternative must be based on "an exchange traded or other market traded index, options, or futures contract or contracts applicable to the market in which the utility sells, and the customers in its service area buy, electric power and energy." And further, that in the event the tariff implementing ComEd's proposal does not establish market values for each of the years specified in the neutral fact-finder process described in Subsections (b) through (h) of Section 16-112, ComEd must offer a tariff incorporating the market values resulting from the neutral fact-finder process. (220 ILCS 5/16-112(a)). If ComEd cannot demonstrate that its proposal and

the tariffs implementing same conform to the requirements of the Act, the Commission cannot approve the tariff as a matter of law. Therefore, to the extent ComEd's filing fails to provide sufficient factual basis upon which to determine whether its proposal and its tariffs comply with the law, the Commission cannot approve the proposal. If IIEC had been granted the opportunity to cross-examine witnesses, conduct adequate discovery and present pre-filed testimony in this proceeding, it believes it would have demonstrated, or at least had the opportunity to demonstrate, that ComEd has not shown that its proposal is in conformance with the Statute.

The Commission should also keep in mind that Section 16-112 requires that the proposed ComEd tariff be filed pursuant to Article IX and that Section 9-101 of Article IX provides in pertinent part:

"All rates or other charges made, demanded or received by any product or commodity furnished or to be furnished or for any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge made, demanded or received for such product or commodity or service is hereby prohibited and declared unlawful." (220 ILCS 5/9-101).

Section 16-101 of the Public Utilities Act provides in pertinent part:

"Except to the extent modified or supplemented by the provisions of this Article, or where the context clearly renders such provisions inapplicable, the other Articles of the Public Utilities Act pertaining to public utilities, public utility rates and services and the regulation thereof, are fully and equally applicable to the tariffed services electric utilities provide." (220 ILCS 5/16-101).

Clearly Section 16-112 (contained in Article XVI), requires that the tariffs described therein be filed pursuant to Article IX. This Section gives the Commission the right to review and reject or modify the tariff (but not to impose a different tariff on the utility). Therefore, the Commission, as

part of the process described herein, must determine whether the tariff proposed by ComEd is just and reasonable.

7. IIEC was able to identify some, but not all, of its concerns about the ComEd proposal in the context of their "Objection to Proposed Schedule" filed on April 10, 2000, and incorporated herein by reference. Had IIEC been granted adequate time to complete discovery, further and additional concerns may have been identified and evidence necessary to support those concerns, as well as the concerns originally identified, may have been developed. IIEC has the following concerns about and objections to the ComEd proposal:

A. The primary and overarching concern of IIEC companies in this proceeding is the potential thinness of the market represented by Altrade and Bloomberg Power Match. (Ex. B, Affidavit of Dr. Linda Bowyer). IIEC believes it can demonstrate the market which is the subject of ComEd's proposal was very thinly traded. (Ex. C, Affidavit of Robert Stephens, ComEd Data Responses provided under seal). IIEC would have sought to establish for the record more detailed information on the number of actual transactions if adequate time for discovery had been permitted. IIEC's concern is relevant to the Commission's decision in this proceeding because the Commission must determine whether the Altrade and Bloomberg Power Match Internet based markets, which provide the data for the ComEd in-house index proposal, may be so thin that it is not representative of the market in which ComEd sells and the customers in its service territory buy electricity. It is only logical that the Commission must determine whether or not the ComEd index, and hence the underlying Bloomberg and Altrade data, is representative of the market in which ComEd sells and customers in its service territory buy. If the Altrade and Bloomberg data do not reasonably reflect

the breadth and scope of that market, the ComEd index based upon that data is not appropriate for use as an alternative to the NFF.

IIEC believes it could have established that the Altrade and Bloomberg data do not fully reflect the market in which ComEd sells and customers in its service area buy, because there are substantially more transactions in that market than are reported by Altrade or Bloomberg. Given the opportunity, IIEC believes that it could have shown the officers of Altra Energy Technologies, the parent company of the Altrade System, for example have made statements in the trade press to the effect that only 2% of electricity trades are now done electronically. Therefore, the ComEd proposal may determine market value for customers in Illinois for a year using only twice a day "snapshots" over a 20-day period in a market with less than 2% of the volume in the market. IIEC believes that it could have shown that there were few, if any, actual transactions in the out-months described in the Altrade/Bloomberg data. IIEC also believes that it would have been able to show that many of the "prices" used by ComEd to develop the on-peak market value under its proposal are really not prices at all, but averages of posted bid and ask quotes not representing actual trades. IIEC believes it could have established for the record the percentage of bid and ask quotes posted by ComEd itself and explained how a high percentage such quotes reflects the potential for manipulation. (See Ex. C, Affidavit of Robert Stephens). Therefore, the ComEd proposal does not incorporate "options or futures contract or contracts" as required by Section 16-112(a) because bid and ask quotes do not constitute such a contract or contracts.

Further, ComEd has not demonstrated that its proposal constitutes an “exchange traded or other market traded index”. The index in question has been developed internally by ComEd. There is no indication that it is an exchange traded or market traded index.

B. Because of the potential lack of actual transactions it is possible that prices determined under this methodology will be based in large part upon bid and ask quotes. (Ex. B, Affidavit of Dr. Linda Bowyer). These quotes will be averaged. There is no indication that the average bid and asked price is currently representative of the relevant market. Bid and asked prices, as noted above, do not constitute actual transactions.

Due to the thinness of the market reflected in the ComEd methodology and the methodology itself, there is a great potential for manipulation.¹ In determining the appropriateness of any alternative to the NFF and the tariffs incorporating that alternative, the Commission should be concerned about the potential for manipulation. The legislature was also concerned about the potential for manipulation, hence the phrase “neutral fact-finder” in Section 16-112. Section 16-112 is a comprehensive attempt by the General Assembly to ensure that market values determined under that Section are not subject to alteration or manipulation by the parties. It would be truly ironic if the Commission were to allow any utility to implement an alternative proposal that could be manipulated or be subject to manipulation by the parties. Under the ComEd proposal, ComEd will take two snapshots (making a screen print of the computer screen), during two 2-hour time slots. The exact time the screen print will be done would be known only to ComEd. Unless an interested

¹As an illustration of the potential for manipulation, consider that bid and ask information can change instantaneously, thus allowing “snapshots” to record postings, not reflective of transaction prices. (Ex. C, Affidavit of Robert Stephens, ComEd Data Responses No. 26).

party, such as another utility, ARES or power customer, hits the screen print every minute of the two 2-hour windows during the twenty day period, they would not have equivalent access to the information used by ComEd to develop its index. This has the potential to give ComEd an advantage in terms of market knowledge, which could be exploited to its benefit. If IIEC had been granted an adequate opportunity to prepare testimony in this proceeding and conduct discovery, and cross-examination, it believes it could have developed this point further.

C. The unregulated nature of the internet based markets reflected in the ComEd proposal is also a matter of concern. (Exhibit A, Affidavit of Dr. Linda Bowyer). These markets are apparently unregulated by Federal Securities Regulators such as the Securities and Exchange Commission and Commodity Futures Trading Commission. IIEC believes that had it been given adequate time to conduct discovery and prepare its case in this proceeding, it would have been able to show that these agencies oversee the trading activities in the markets they regulate, searching for evidence of market manipulation. IIEC believes that it could have shown that this oversight does not exist for the Altrade and Bloomberg markets that are proposed for use in the ComEd proposal.

A lack of oversight by such a governmental agency or at least internal rules and procedures for the exchange, (which may or may not exist in the case of Altrade or Bloomberg), only adds greater weight to the concerns for potential manipulation given the thinness of the markets proposed for use by ComEd.

D. The ComEd methodology does not allow complete transparency and access by retail consumers. (Exhibit A, Affidavit of Dr. Linda Bowyer). ComEd's testimony shows that the data it uses from Altrade and Bloomberg is proprietary and can only be generated by "screen printing"

off a computer screen. Altrade apparently lacks historical databases of prices available to all customers. To the extent data is available from Altrade and Bloomberg, it is available only to subscribers is costly, and is limited to transactions (Altrade) - not bid and ask quotes. (Ex. C, Affidavit of Robert Stephens, ComEd. Data Response No. 17). IIEC believes it could have shown that unlike futures markets, which have historical databases and open market access to anyone with a futures trading account, the Altrade and Bloomberg markets are subscriber markets. Retail customers are prohibited from participating in this market since they are permitted to buy power only from an alternative retail electric supplier or an electric utility. It is also not clear to IIEC how the customer could access the Bloomberg and Altrade markets to monitor activity, especially when it is ComEd which determines when the “snapshot” (screen print) will take place during the two hour window. If customers cannot fully participate in the subject market, it is not a market in which the utility sells and the customers in its service area buy as required by Section 16-112(a).

Such concerns are also relevant to the Commission’s determination because one of the major concerns with the NFF process is its “black box” nature. The ComEd proposal is also a “black box” subject to ComEd’s control. It is now ComEd and not the NFF who will be determining market value on the basis of a thinly traded index based on data, (primarily on bid and ask quotes, not actual trades) which is not regularly available to retail customers, at a point in time determined by ComEd. (See for example, Ex. C, Affidavit of Robert Stephens, ComEd Data Responses Nos. 1, 2, and 4). This concern is also relevant to the Commission

determination since it is necessary that the integrity of the process for determining market value be assured.

E. The ComEd proposal may be worse in some respects than the proposal rejected by the Commission in Docket 99-0171.

As noted in paragraph 5 above, the Commission rejected ComEd's proposal for an alternative to the NFF in Docket 99-0171. In doing so, it noted that one of the principle benefits of the ComEd proposal was its "transparency". As noted elsewhere in these comments, IIEC believes that it would be able to show that the proposal by ComEd in this proceeding is not as "transparent" as the proposal made in Docket 99-0171.

The Commission rejected the ComEd proposal in Docket 99-0171 because of its lack of liquidity and the resulting potential for market manipulation. IIEC believes that it could demonstrate that the index proposal recommended by Edison in this proceeding is, potentially, even less liquid than the index proposal rejected in Docket 99-0171.

IIEC believes that it could show that it was a single market participant which made all of the bids and all or substantially all of the ask quotes reflected in the Bloomberg and Altrade data used to develop the ComEd on-peak market value under the ComEd alternative proposal. IIEC believes that it could show, the market was very thinly traded for the relevant period. (See Ex. C, Affidavit of Robert Stephens, ComEd Data Responses, provided separately under seal).

In addition, IIEC believes that it could show that ComEd witness McDonald testified in Docket 99-0171 that ComEd did not elect to use an "into ComEd" futures index because the ComEd futures market had "limited trading volume". (ComEd Petition For Approval of

Alternative Methodology for Calculating Market Values pursuant to Article IX and Section 16-112 of the PUA, Docket 99-0171, Ex. A, P. 5). Likewise, in the case at bar, IIEC believes that it would have been able to show that ComEd's proposals for determination of the on-peak market value were based on "limited trading volume".

F. The ComEd filing does not meet the requirements of Section 16-112(a) in that it fails to establish a procedure for determining market value in all of the years specified in subsections (b) through (h) of Section 16-112.

Section 16-112(a) provides that market value used in the calculation of transition charges is to be determined in accordance with either:

"...(i) a tariff that has been filed by the electric utility with the Commission pursuant to Article IX of this Act and that provides for a determination of the market value for electric power and energy as a function of an exchange traded or other market traded index, options or futures contract or contracts applicable to the market in which the utility sells and the customers in its service area buy, electric power and energy, or (ii) in the event no such tariff has been placed into effect for the electric utility, or in the event such tariff does not establish market values for each of the years specified in the neutral fact-finder process described in subsections (b) through (h) of this section, a tariff incorporating the market values resulting from the neutral fact-finder process set forth in subsections (b) through (h) of this section." (220 ILCS 5/16-112(a) (Emphasis added).

ComEd's filing fails to contain a tariff which establishes market values for each of the years specified in the neutral fact-finder process described in Section 16-112(b) - (h), or in the alternative, a tariff incorporating the market values resulting from a neutral fact-finder process set forth in Section 16-112(b) - (h).

ComEd suggested in its reply to the comments of certain intervenors, including IIEC, (ComEd Reply, Pp.3. Fn. 1), that its failure to comply with this provision of Section 16-112(a) was not fatal to its Petition since the Commission could direct that ComEd file a tariff to incorporate market values for the years specified in subparagraphs (b) through (h) of Section 16-112. IIEC disagrees. The Statute requires that Edison's alternative to the NFF incorporate a method for determining the market value in the subject years, or that ComEd file a tariff incorporating values resulting from the neutral fact finder process. ComEd's suggestion that the NFF has not yet determined values for these years is not dispositive of this issue. Customers must make decisions to enter the competitive market for electricity. In many instances, the utility tariffs require customers to make such decisions weeks and in some cases, months in advance of the actual entry into the competitive market. Once these decisions are made, customers are committed for minimum periods of time. In some cases, these commitments are for at least a year. In order to make these decisions, customers must have adequate information. They must be aware of all options. If ComEd does not have a tariff in place which would incorporate values determined by the NFF for the subject years and the NFF does make a determination of market value for those years, customers entering the market will have to wait for ComEd to develop and implement a tariff incorporating those values. Customers may actually prefer to lock in the transition charge they will pay for the entire recovery period, as they have a right to do under Section 16-112(n) of the Act. In the absence of a tariff which incorporates the values the NFF will determine in July of 2000, customers will not have that option and, depending on when ComEd develops and files such a tariff, may not have the option for many months, in spite of the fact that the statute specifically provides them with that option. For this

reason, ComEd should be made to modify its filing to conform with the direction of Section 16-112(a) and the Commission should delay any consideration of the ComEd proposal until it does so.

G. ComEd's filing could have an adverse impact on customers. As described at pages 5 and 6 in the Petition for Leave to Intervene of MidAmerican Energy Company, the timing of the ComEd proposal, particularly "Applicable Period A" unjustly enriches ComEd via an interest free loan, due to its effective date immediately prior to the high priced summer months. High summer seasonal prices combined with annualized transition charges creates a mismatch of costs bases that results in customers "front loading" transition charge revenues in the early months of the program. IIEC believes that had it been given adequate time to conduct discovery and prepare its case in this proceeding, it would have been able to estimate the financial impact of this "front loading" by customers and compared it to the current situation, under which changes in the transition charges occur at the beginning of a calendar year, in the middle of the non-summer season. Apparently, the proposal greatly increases the potential for payment basis disparities.

8. ComEd has failed to provide appropriate notice of its proposed change in rates. Therefore its petition must be denied.

ComEd makes this filing under Article IX and Section 16-112 of the Public Utilities Act. (ComEd Petition, P. 1). Though Section 16-112 does authorize ComEd to file a tariff incorporating an alternative to the NFF, it does not establish the procedure for the filing and the approval of the tariffs. In fact, Section 16-112(a) requires the new tariff establishing market value be filed by the electric utility pursuant to Article IX of the Act. (220 ILCS 5/16-112(a)). Article IX contains at

least four sections which deal with the requirement to file rates and tariffs and/or the Commission's authority to approve or modify or change such rates and tariffs.

The first of these sections is Section 9-101, which requires that utility rates and tariffs be just and reasonable. This Section, while relevant to this proceeding, does not impose a specific procedure for disposition of the ComEd filing.

The second of these is Section 9-102, which requires each public utility to file with the Commission schedules showing rates and other charges in force for the products and services offered by the public utility. Obviously, the tariff modifications attached to ComEd's Petition are not "in force" and, therefore, this Section would not be relevant to this proceeding.

Section 9-201 of the Act, which is the third section in question, provides in pertinent part:

"Unless the Commission otherwise orders, and except as otherwise provided in this Section, no change shall be made by any public utility in any rate or other charge or classification, or in any rule, regulation, practice or contract relating to or affecting any rate or other charge, or classification or service, or in any privilege or facility, except after 45 days notice to the Commission and to the public as herein provided." (220 ILCS 5/9-201(a)).

This Section goes on to require publication of notice in a newspaper or as otherwise required by Commission rule. The Commission is also empowered under this Section, to suspend the rates as filed by the public utility and conduct a hearing on them or to allow them to go into effect without hearing. This Section appears to be applicable to ComEd's Petition in this proceeding since ComEd seeks to change an existing tariff.

Finally, Section 9-250 authorizes the Commission, after a hearing, which it initiates on its own motion or pursuant to complaint, to find whether a rate, etc., is unjust, unreasonable,

discriminatory or preferential or otherwise unlawful and to determine the just and reasonable rate. This section requires a hearing, but apparently it does not require a 45 day notice.

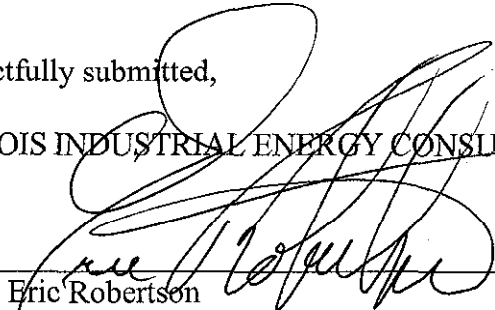
ComEd has not indicated under which Section of Article IX this proceeding has been initiated. IIEC believes that it must be brought under Section 9-201 and that 45 day notice is required. This is a proceeding that could change an existing rate or tariff. ComEd is permitted to file a new tariff to establish market value under Section 16-112. It does not seek to have the tariffs incorporating the current NFF value declared unjust, unreasonable, discriminatory, or otherwise unlawful as required by Section 9-250. Indeed, it would be difficult for ComEd to do so since the tariff incorporating the NFF value is specifically authorized by Section 16-112 and was only recently determined to be just and reasonable in Docket 99-0117. Therefore, this must be considered a filing under Section 9-201 and, thus, 45 day notice is required. Where statutory notice, hearing and evidentiary requirements are not followed, the Commission loses its jurisdiction to act and any order it enters under such circumstances, is void. See Commonwealth Edison Company v. Illinois Commerce Commission, 180 Ill.App.3d 899, 536 N.E.2d 724, (Ill.App.Ct. 1988) a.d. 126 Ill.2d 557, 541 N.E.2d 1105. If on the other hand this is a Section 9-250 proceeding, this is a contested case under Section 10-101 of the Act and IIEC would be entitled to cross-examine witnesses and to present testimony in rebuttal to ComEd.

DATED this 18th day of April, 2000.

Respectfully submitted,

ILLINOIS INDUSTRIAL ENERGY CONSUMERS

By: _____


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STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY

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No. 00-0259

Petition for expedited approval of implementation of a market-based alternative tariff, to become effective on or before May 1, 2000, pursuant to Article IX and Section 16-112 of the Public Utilities Act.

IIEC RESPONSE TO THE QUESTIONS POSED BY THE COMMISSION
AND ATTACHED TO THE EXAMINER'S RULING OF APRIL 13, 2000

QUESTION 1: ComEd representatives recently stated during Commerce Commission Electric Policy Meetings and during legislative forums that the provisions of the Electric Service Customer Choice and Rate Relief Law of 1997 (Customer Choice Law) are working well and that there is robust development of retail competition in the ComEd service territory. How are these statements reconciled by ComEd with the filing of this Petition in which ComEd requests a substantial change, on a very expedited basis, in the market value determination?

This question appears to be directed at ComEd. Therefore, IIEC makes no response to this question.

QUESTION 2: The ComEd Petition states that the expeditious approval of this Petition is in the public interest because it will promote the ongoing transition to a fully competitive retail market by providing additional opportunities for savings to customers. (Emphasis added.) Please explain.

ComEd's proposal can result in lower transition charges for some. However, when the transition charge is combined with higher market prices, whether from ComEd (PPO) or other suppliers, savings may be illusory at best. ComEd could truly provide additional opportunities for savings to customers and greatly promote the development of the competitive market by waiving transition charge collections altogether.

Because the PPO prices will be more volatile and generally higher, customers will face much higher costs this summer and many will face higher costs overall. This detrimental effect is compounded by the fact that ComEd's filing, with its expedited schedule, precludes customers from exercising the PPO option under the current values. This is because the

PPO tariff requires at least 30 days notice prior to a customer's switch date and ComEd would cut off eligibility as of the effective date of the tariff.

QUESTION 3: Assuming that the summer market value reflected in ComEd's current tariffs is too low and therefore that the current transition charge is too high, and further assuming that ComEd's proposal in this proceeding is not approved, indicate how, if at all, ComEd will propose that its transition charge be changed?

This question appears to be directed at ComEd. Therefore, IIEC makes no response to this question.

QUESTION 4: Due to the vagaries of the retail electric market and other considerations, what are the benefits and/or detriments to ComEd recommending to the Commission that this tariff be effective for a defined time period rather than for an indefinite time period. And what would be the appropriate defined time period, if any.

IIEC does not support the implementation of the ComEd alternative to the NFF even if the tariff were placed into effect for a "defined period of time" rather than a "indefinite time period". IIEC believes that there are significant flaws in the methodology which make its implementation even for a temporary period of time inappropriate. These flaws have been discussed in greater detail in IIEC's comments in response to the ComEd proposal.

However, under any circumstance, the tariff should only be in effect for a defined period of time not to exceed one year given the uncertainties associated with any approach.

QUESTION 5: Indicate whether the attorney(s) representing ComEd in this proceeding are also representing Unicom Energy, Inc. in this or any other Commission proceeding. Also, indicate if any other attorney(s) representing a utility in this proceeding are also representing a retail electric supplier (RES) affiliated with that utility in this or any other Commission proceeding; or, if representing a RES in this proceeding, are any such attorney(s) also representing a utility affiliated with that RES in this or any other Commission proceeding.

This question appears to be directed at ComEd. Therefore, IIEC makes no response to this question.

QUESTION 6: The proposed tariffs contained in the Petition are applicable only to ComEd. Given the current status of competition and choice in Illinois, how, if at all, would the approval of this proposal affect the adoption of market index based tariffs to determine market value by other electric utilities in Illinois as well as the development of retail competition in service territories in Illinois other than the ComEd service territory?

While IIEC generally supports a uniform approach to the development and implementation of delivery service tariffs, including tariffs to establish market value, because of a beneficial effect on the development of competition in Illinois, Section 16-112 does not appear to mandate such an approach. In fact, Section 16-112 appears to be designed to accommodate the possibility that different approaches would be taken in different service areas.

In spite of this fact, the Commission should keep in mind that Section 16-112(m) of the Public Utilities Act provides that if each electric utility serving at least 300,000 customers has placed into effect a tariff determining market value on the basis of an exchange traded or other market traded index, options, or futures contract or contracts, the Commission can require any other electric utility in the State of Illinois to file such a tariff. Thus, there is a potential for use of a similar, or the same approach, throughout the State. The Commission could encourage and direct this type of approach through the use of its authority to approve, reject or propose modifications to any tariff proposed by an electric utility under Section 16-112(a).

At this time, the NFF approach has the positive effect of determining a single market value or set of market values for the entire state. Customers and competitors are not required to review and understand procedures for determining those values that differ from service territory to service territory. IIEC believes the uniformity in the approach does benefit the development of competition throughout the State. Adoption of the ComEd approach could impact the development of approaches in other service territories within the State. However, as noted above, the Act would appear to accommodate approaches different than recommended by ComEd here, if the Commission should determine that a different approach in a different service territory would be appropriate.

Respectfully submitted,



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STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	:	
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Petition for expedited approval of implementation of a	:	No. 00-0259
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AFFIDAVIT OF DR. LINDA E. BOWYER

Dr. Linda E. Bowyer, having been duly sworn, does depose and say as follows:

1. My name is Linda E. Bowyer. I am an Associate Professor of Finance and Director of Small Business & Entrepreneurship Institute, at the University of Toledo. I have a Bachelor's Degree (1977) in Chemistry and a Ph.D. in Economics, with a minor in Engineering Valuation (1981) from Iowa State University. Since receiving my doctorate, I have served on the Finance faculty of the University of Cincinnati, the University of Missouri-Kansas City, and the University of Toledo. My area of teaching and research interests include investments, speculative markets and financial institutions. I have published articles in eleven (11) refereed journals, such as Financial Review, the Review of Futures Markets and Quarterly Journal of Business and Economics. I have served as an expert witness on numerous cases involving investments in stocks and futures.

2. I was an expert witness for the Illinois Industrial Energy Consumers in Docket 99-0171, relating to Commonwealth Edison Company's (ComEd) previous proposal for an alternative to the NFF.

3. I have reviewed the Petition filed by ComEd and certain of the exhibits and testimony attached thereto.

4. In my opinion, the methodology proposed by ComEd is flawed in four major areas:

- i) thinness of the market being used as an index for calculation of the market value;
- ii) potential for manipulation of the market due to the thinness and the methodology being employed;
- iii) the unregulated nature of the Internet based markets being used as the market; and
- iv) the problems connected with customer access to trading and price information in these markets.

5. According to Michael Burke, President of Altra Energy Technologies, the parent company of Altrade System, only 2% of the electricity trades are now done electronically. (Megawatt Daily, Tuesday, April 4, 2000). The ComEd proposal will determine market value for customers in Illinois for a year using only twice a day "snapshots" over a twenty (20) day period and a market with less than 2% of the volume in the market. Apparently the on peak market value calculated under the ComEd methodology will not always be based on the price of actual transactions. It can be based on the average of posted bid and asked prices, which do not represent actual transactions or trades.

6. Due to the thinness of the market described above, the potential for manipulation is great.

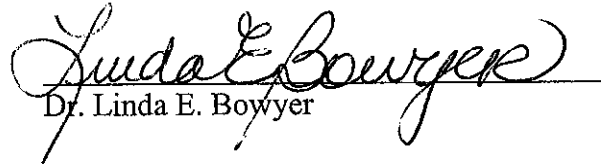
7. Under the ComEd methodology, ComEd will have an advantage in terms of market knowledge, which could be exploited to its benefit.

8. Internet-based markets are unregulated by federal securities regulators such as the Securities and Exchange Commission and Commodity Futures Trading Commission. This oversight does not exist in relation to the underlying data from Altrade and Bloomberg Power Match which is incorporated into the ComEd proposal.

9. The methodology employed by ComEd does not allow complete transparency and access by retail electric customers. An historical data base of prices available to all customers from the

Altrade and Bloomberg Power Match markets is not possible, as the data is proprietary and can only be generated by "screen printing" off of a computer screen.

FURTHER THE AFFIANT SAYETH NOT.


Dr. Linda E. Bowyer

STATE OF ILLINOIS :
 : SS
COUNTY OF MADISON :

SUBSCRIBED AND SWORN TO before me, this 17th day of April,
2000.


NOTARY PUBLIC



STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	:	
	:	
Petition for expedited approval of implementation of a	:	
market-based alternative tariff, to become effective on	:	No. 00-00259
or before May 1, 2000, pursuant to Article IX and	:	
Section 16-112 of the Public Utilities Act.	:	

AFFIDAVIT OF ROBERT STEPHENS

Robert Stephens, having been duly sworn, does depose and say as follows:

1. My name is Robert Stephens. I am a Senior Consultant with the firm of Brubaker & Associates, Inc., P.O. Box 412000, St. Louis, MO 63141-2000. I have a Bachelor of Science Degree (1984) in Engineering from Southern Illinois University at Carbondale, and a Master of Business Administration (1996) from the University of Illinois at Springfield. Prior to joining Brubaker & Associates, I worked for eight years in various positions with the Illinois Commerce Commission and for three years at a municipal electric utility in Illinois. I have served as an expert witness on numerous cases before the Illinois Commerce Commission.

2. I was a designated participant on behalf of the Illinois Industrial Energy Consumers (IIEC) in numerous of the workshops related to the development of an alternative to the NFF referred to in Commonwealth Edison Company's (ComEd) filing in this case.

3. I have reviewed the Petition filed by ComEd and the Exhibits and testimony attached thereto. I also assisted in the development of the IIEC's First Data Request, dated April 17, 2000.

4. I have received and reviewed several responses by ComEd to IIEC's First Data Request. Several of them were designated 'Confidential' and were provided subject to "Agreement Regarding Protection of Confidential and Proprietary Information Produced by Commonwealth Edison Company" (hereinafter Confidentiality Agreement), which I signed. The terms of the Confidentiality Agreement dictate that I not disclose any such information to parties, other than Commission officers and employees governed by Section 5-108 of the Public Utilities Act, who have not signed and delivered a similar agreement to ComEd.

5. Several of the ComEd responses to IIEC's First Data Request are believed by IIEC to be supportive of its comments on ComEd's alternative to the NFF and are attached to this affidavit as Attachment A, and incorporated herein by reference, as if fully set out herein.

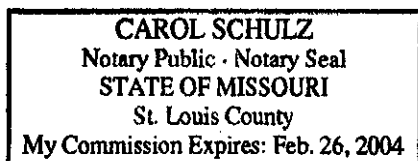
6. Such items which are not marked Confidential are responses to IIEC request numbers 1, 2, 4, 9, 17, 26 and 35. ComEd responses which are subject to the Confidentiality Agreement, and provided under seal, are the responses to request numbers 3, 5, 6 and 23.

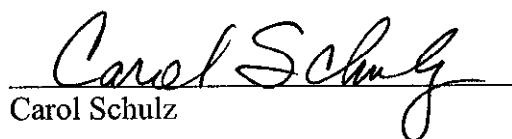
FURTHER THE AFFIANT SAYETH NOT.


Robert Stephens

STATE OF MISSOURI :
: SS
COUNTY OF ST. LOUIS :

SUBSCRIBED AND SWORN TO before me, this 18th day of April, 2000.




Carol Schulz

My Commission expires on February 26, 2004.

#7354/9020

Commonwealth Edison Company
I.C.C. Docket 00-0259
Illinois Industrial Energy Consumer's First Data Request
Dated April 17, 2000

Request: 1

Question: Please provide the screen prints from the Altrade and the Bloomberg Power Match websites taken during the 20 "snapshots" used to develop the on-peak indices, clearly indicating the nature of the price (i.e., transaction, bid and asked) for each forward month.

Response: The requested information is proprietary to Altrade™ and Bloomberg PowerMatch, confidential, and commercially sensitive, and ComEd has not been authorized to distribute it. However, the data is proposed to be subject to audit by the Illinois Commerce Commission.

Commonwealth Edison Company
I.C.C. Docket 00-0259
Illinois Industrial Energy Consumer's First Data Request
Dated April 17, 2000

Request: 2

Question: Please provide the daily market value derived for each of the contract months during each of the 20 snapshot observations for both pricing sources.

Response: See Response to Question 1.

**Commonwealth Edison Company
I.C.C. Docket 00-0259
Illinois Industrial Energy Consumer's First Data Request
Dated April 17, 2000**

Request: 4

Question: Please provide the size of each of the actual transactions observed.

Response: The requested information is proprietary to Altrade™ and Bloomberg PowerMatch, confidential, and commercially sensitive, and ComEd has not been authorized to distribute it. However, the data is proposed to be subject to audit by the Illinois Commerce Commission.

**Commonwealth Edison Company
I.C.C. Docket 00-0259
Illinois Industrial Energy Consumer's First Data Request
Dated April 17, 2000**

Request: 9

Question: Please provide the dates on which the Into ComEd product began trading on each of the Altrade and Bloomberg Power Match websites.

Response: Trading of electricity forward contracts in the AltradeTM electronic trading system for the Into ComEd hub began in mid-October 1999. Trading of electricity forward contracts in the Bloomberg PowerMatch electronic trading system for the Into ComEd hub began in early February 2000.

Commonwealth Edison Company
I.C.C. Docket 00-0259
Illinois Industrial Energy Consumer's First Data Request
Dated April 17, 2000

Request: 17

Question: Is historical data on transactions and pricing information from the Altrade and Bloomberg Power Match services available? If so, please identify the methodology for obtaining such after the fact data and the cost, if any.

Response: ComEd has been informed that certain historical data on transactions and pricing information *related to transactions* from the AltradeTM electronic trading system is available for purchase from PricewaterhouseCoopers. As of March 2000, costs for acquiring historical transactions data from PricewaterhouseCoopers was as follows: \$75,000 for historical data, and \$5,250/month for update service.

ComEd has also been informed that historical data on bid/offer pricing information from the AltradeTM electronic trading system is not currently available for purchase. Any further inquiries about availability of bid/offer pricing from the AltradeTM electronic trading system should be directed to Altra Energy Technologies or PricewaterhouseCoopers.

Also, ComEd has been informed that historical data on transactions and pricing information from the Bloomberg PowerMatch electronic trading system is available for purchase from Bloomberg. As of March 2000, the cost to subscribe to the Bloomberg service, and thus obtain historical data, was approximately \$1,250/month.

**Commonwealth Edison Company
I.C.C. Docket 00-0259
Illinois Industrial Energy Consumer's First Data Request
Dated April 17, 2000**

Request: 26

Question: In the Altrade and Bloomberg Power Match services, please describe how bids and offers are placed, which ones show up on the service, how often they can change (e.g., days, hours, minutes, seconds) and describe the provisions for rescinding a bid or offer.

Response: In the AltradeTM and Bloomberg PowerMatch systems, bids and offers can be placed by any approved market participant, per contractual agreement with Altrade Trading Corp. and Bloomberg, respectively. Bid and offer information can change instantaneously as both systems are real-time, Internet-based, on-line trading platforms. Screens display "best market" information (i.e., highest bid, and lowest offer), as well as depth of markets with successively lower bids, and successively higher offers, if any are available at that time.

In the event of a "fat finger" error (i.e., a bona fide computer input error), a market participant is entitled to remove data from the system without penalty, even if a match between a buyer and a seller has occurred. However, both parties must agree to the existence of a "fat finger" error in order for the deal to be rescinded. In general, buyers and sellers that are matched by the system are obligated to consummate a deal, with the exception of a recognized "fat finger" error. Therefore, it is not possible to cancel a deal without prior consent from both parties.

**Commonwealth Edison Company
I.C.C. Docket 00-0259
Illinois Industrial Energy Consumer's First Data Request
Dated April 17, 2000**

Request: 35

Question: Please identify what information, if any, provided by ComEd under the auspices of the workshop process was not considered to be confidential and not admissible as evidence in this or any other proceeding.

Response: Other than the PJM data which is publicly available, all information distributed at the workshops is confidential and was so marked. In addition, the information disclosed during workshop discussions is confidential as indicated on the sign-in sheets for each workshop and announced at the beginning of each workshop.

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

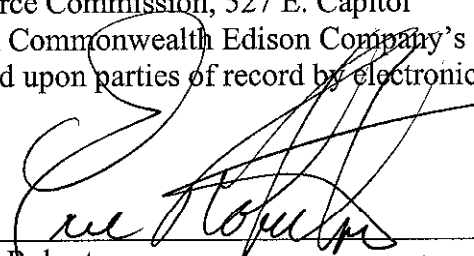
COMMONWEALTH EDISON COMPANY

NO. 00-0259

Petition for expedited approval of implementation of a
market-based alternative tariff, to become effective on
or before May 1, 2000, pursuant to Article IX and Sec-
tion 16-112 of the Public Utilities Act.

NOTICE OF FILING

PLEASE TAKE NOTICE that on this 18th day of April, 2000, we have filed by mailing
overnight for next day delivery, with the Illinois Commerce Commission, 527 E. Capitol
Avenue, Springfield, Illinois, 62701, IIEC Comments on Commonwealth Edison Company's
Alternative to the NFF, copies of which are hereby served upon parties of record by electronic
filing and also by over night mail for next day delivery.

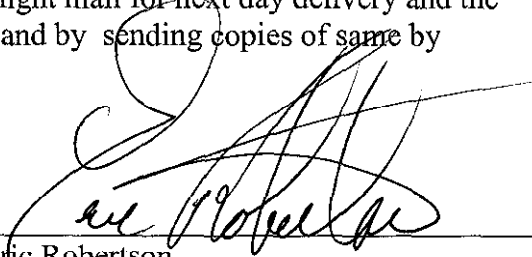


Eric Robertson
Lueders, Robertson & Konzen
1939 Delmar Avenue
Granite City, IL 62040


STATE OF ILLINOIS :
 :
COUNTY OF MADISON : SS

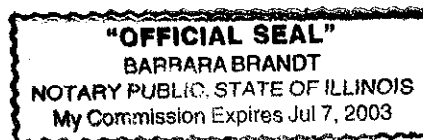
PROOF OF SERVICE

I, Eric Robertson, being an attorney admitted to practice in the State of Illinois, do herewith certify that I did the 18th day of April, 2000, serve copies of the attached IIEC Comments on Commonwealth Edison Company's Alternative to the NFF, by filing same with the Clerk of the Illinois Commerce Commission overnight mail for next day delivery and the parties on the attached service list by electronic filing and by sending copies of same by overnight mail for next day delivery.


Eric Robertson
Lueders, Robertson & Konzen
1939 Delmar Avenue
Granite City, IL 62040

SUBSCRIBED AND SWORN TO before me, a Notary Public, on this 18th day of April, 2000.


NOTARY PUBLIC



COMMONWEALTH EDISON COMPANY
ALTERNATIVE TO NFF
DOCKET NO. 00-0259
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